

2/8/77 [2]

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FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
Note	Hutcheson to Brzezinski, w/attachments, 3 pp. Re: Head of state correspondence	2/8/77	A
Notes	Discussion, 2/8/77 Re: China	2/8/77	A

FILE LOCATION

Carter Presidential Papers, Staff Offices, Office of Staff Secretary, Presidential Handwriting
File, 2/8/77 [2] Box 6

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plw

Revised:
2/8/77
12:00 Noon

THE PRESIDENT'S SCHEDULE

Tuesday - February 8, 1977

THE PRESIDENT HAS SEEN.

7:30 Dr. Zbigniew Brzezinski - The Oval Office.

7:45 Mr. Frank Moore - The Oval Office.

8:00 Democratic Congressional Leadership Meeting.
(Mr. Frank Moore) - The Cabinet Room.

9:00 Senator Hubert H. Humphrey - The Oval Office.
(5 min.)

9:15 Congressman Frank Horton. (Mr. Frank Moore)- Oval Office.

10:00 Huang Chen, Chief, Liaison Office of the People's
Republic of China. (Dr. Zbigniew Brzezinski).
The Oval Office.

Bell - Skorea/Cory

2:30 Press Conference. (Mr. Jody Powell).
Room 450, OEOB.

→ 3:30 Secretary W. Michael Blumenthal - The Oval Office.

4:45 Governor Richard F. Kneip. (Mr. Jack Watson).
The Oval Office.

5:00 Secretary Cecil D. Andrus and Mr. Robert Herbst.
The Oval Office.

5:30 J. Eckard

6:30 Informal Dinner Honoring Members of the Supreme
Court and Their Wives - First Floor Family
Dining Room.

2025 RELEASE UNDER E.O. 14176

THE WHITE HOUSE
WASHINGTON

February 8, 1977

Peter Bourne -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Richard Harden
Margaret McKennz
Stu Eizenstat

re: Implementation of ODAP

THE WHITE HOUSE
WASHINGTON

CCC

Peter Baine
Richard Harden
Margaret McKenna
STU

THE WHITE HOUSE
WASHINGTON

Mr. President:

Attached is Peter Bourne's plan for implementing the Office of Drug Abuse Policy.

Peter's proposed staffing includes 14 professionals and 8 clerical persons, at a cost of 1.32 million, which Peter says is 30% under the appropriated budget. ²²

Richard Harden has some reservations, which are attached in full.

NSC has no objection to Peter's memo.

I don't think it is necessary for you to read the job descriptions, which are attached FYI.

Rick

MEMORANDUM

THIS DOCUMENT IS NOT TO BE
REPRODUCED OR TRANSMITTED IN ANY FORM

THE WHITE HOUSE
WASHINGTON

February 3, 1977

MEMORANDUM TO: The President
FROM: Peter Bourne *P.B.*
SUBJECT: Implementation of ODAP

Hamilton suggested I provide for you the implementation plan for the Office of Drug Abuse Policy. Consistent with your directive to reduce staffing in the Executive Office of the President, I am proposing a budget 30 per cent below the appropriated level and a similar reduction in the intended staffing. I am, however, very concerned about being able to fulfill the legislated responsibilities of the office with the reduced resources and feel these levels are absolute minimums. I understand that as director I would be required to spend approximately 25 per cent of my time on the hill, and do not want to embarrass you or myself by having the Congress be able to show that the cutbacks had prevented us from carrying out the functions mandated under the legislation. I believe based on recent discussions with members of Congress that I have convinced them we could fulfill the requirements of the legislation despite this 30 per cent cut.

The legislation does call for the carrying out of some rather detailed and complex responsibilities including: Establishing federal drug abuse policy and ensuring that it is carried out by all Federal Departments, reviewing the budgets and assessing the performance of the various agencies, including regulatory functions.

I am attaching as an addendum a job description of each of the key personnel and the budget.

c.c. Hamilton Jordan
Bert Lance

Peter: I prefer a much smaller staff and assignment of additional help from State, Justice, HEW, CIA, etc. for limited time as needed. With your advice, I will provide the ~~muscle~~ muscle needed -

*A total of not more than 10, including clerical would be o.k.
J.C.*

THE WHITE HOUSE


WASHINGTON

February 4, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

RICHARD HARDEN 

SUBJECT:

Peter Bourne's Memorandum re
Implementation of Office of
Drug Abuse Policy

Although I have not studied the legislation concerning the Office of Drug Abuse Policy, Peter's memo raises some questions that you might want to address before proceeding:

- While I agree that something needs to be done about the problem of drug abuse, I am not sure the solution is to set up a far-reaching office in the Executive Office of the President without first studying the problem in more detail.
- I am not sure what Peter has in mind when he says "conduct international negotiations," but I would assume that any such activity should be closely coordinated with the NSC and the State Department. Similarly, I am not sure what authority the following other specialists would have over the agencies involved:
 - . Law Enforcement Specialist
 - . Intelligence Specialist
 - . Regulatory and Compliance Specialist
 - . Treatment, Rehabilitation, Prevention Specialist
 - . Criminal Justice/Treatment Specialist

- I would suggest that five to ten people be hired to form the nucleus of a task force that would study the question of how best to deal with the drug abuse problem and that representatives of affected agencies be included on the task force. I would suggest that you ask Peter to develop a detailed work program for the study including the following information:
 - Objectives of the study
 - Major tasks
 - Person responsible for each task
 - Start and completion dates for each task

JOB DESCRIPTIONS

ADDENDUM I

STAFF COMPLIMENT FOR ODAP

Director*

Make recommendations to the President with respect to policies for, objectives of, and establishment of priorities for Federal drug abuse functions and coordinate the performance of such functions by federal agencies. Conduct international negotiations on behalf of the President, submit to the President an annual report and provide administrative support to the Cabinet Level Strategy Council. Testify on the Presidents behalf before the Congress concerning all aspects of the drug problem.

Deputy Director*

Provide support to the Director and act on his behalf in his absence. He will testify before the Congress, and coordinate the staff work in carrying out the legislated functions of the agency.

Senior Law Enforcement Specialist

Provides lead staff support for the law enforcement work group of the Strategy Council; writes that section of the Federal Strategy; maintains oversight of Federal, State and local law enforcement agencies including the Drug Enforcement Administration (DEA), Customs, Immigration and Naturalization Service, to assure adequate coordination; advises on and assures implementation of Federal policy by virtue of his unique perspective.

Intelligence Specialist

Establishes and coordinates strategic and tactical intelligence requirements for several Federal agencies including CIA, DEA and State Department and assures appropriate collection mechanisms as well as analysis and dissemination of the information. Assures proper utilization of information for optimal targeting of law enforcement efforts.

*These two positions require Senate confirmation and their functions are mandated in the legislation establishing the Office of Drug Abuse Policy.

International Specialist

Provides staff support for the Director's responsibility to represent the President in international discussions and negotiations relating to drug abuse. This is accomplished by maintaining oversight of the international narcotics programs of the DEA, State Department and National Institute on Drug Abuse (NIDA). Assures policy coordination and implementation in those agencies and carries special responsibility for assuring adequate drug abuse services for official U.S. dependents in high drug use areas throughout the world. Provides staff support for the international work group of the Strategy Council and writes that portion of the Federal Strategy.

Regulatory and Compliance Specialist

Coordinates and assists in policy making on the control of licit drugs (such as amphetamines and barbiturates) among relevant agencies which include the Food and Drug Administration (FDA), NIDA, DEA, Post Office, and Federal Trade Commission (FTC). Maintains adequate liaison with State/local counterparts in the pharmaceutical industry. Has oversight responsibility for policy regarding professional standards, prescribing practices, and quota setting.

Senior Treatment, Rehabilitation, Prevention Specialist

Provides lead staff support for prevention work group of Strategy Council which includes treatment, rehabilitation, prevention, research and evaluation. Writes that portion of the Federal Strategy. Maintains oversight and coordination among various involved Federal agencies which include NIDA, Veterans Administration (VA), Defense, Labor and several other HEW agencies. Advises on and assures implementation of Federal policy by virtue of his unique perspective.

Criminal Justice/Treatment Specialist

Responsibility for coordination and oversight functions of agencies which provide special services for drug involved offenders which includes the U.S. Probation Office, Bureau of Prisons, Law Enforcement Assistance Administration (LEAA), U.S. Board of Parole, and NIDA.

This is especially difficult since it involves both the Executive and Judiciary Branches of Government and program success requires uniform policy determination and implementation.

Administrative Officer

Provides administrative and management support for the Office which includes budget, contracting, personnel, travel and procurement of office equipment, furnishing supplies, etc. Responsibility for liaison with other government support functions in such agencies as GSA, Civil Service Commission and OMB. Assures provision of all required services in order that professional staff may carry out responsibilities and that these services are provided within the scope of prevailing government law and regulations.

Administrative Assistant

This position supports the Administrative Officer in carrying out numerous and miscellaneous functions which includes the following: purchases airline tickets, prepares travel vouchers, processes such vouchers for payment, maintains personnel, property and accounting records, prepares all necessary documents and reports required at other Federal agencies relating to space, parking, telephone, taxi vouchers, etc.

General Counsel

Performs legislatively required function of "reviewing regulations, guidelines, requirements criteria and procedure of Federal departments and agencies applicable to the performance of drug abuse functions". Assures maximum provision of services with minimal government regulation and red tape. The law also gives special responsibility to ODAP for the special confidentiality regulations which this person will oversee. Will review existing and propose laws and regulations and make recommendations for changes which will improve the drug program.

Public Affairs Specialist

Coordinates public announcements and press releases to assure that the content accurately reflects Presidential

policy in the drug program, provides press information to White House Press Secretary on drug issues, prepares press statements and announcements and coordinates release of press information on the drug program with various government agencies and the news media.

Congressional Affairs

Has primary responsibility for maintaining contact with Congressional staff persons in both the House and Senate committees including the House Select Committee on Narcotics and the various program and appropriations committees which impact the drug program. Responds to numerous anticipated Congressional inquiries and prepares Congressional testimony for the Director and Deputy Director. Monitors Congressional hearings and legislative proposals.

Program Evaluation Specialist

Performs legislatively required functions of evaluating the effectiveness of various agency programs by carrying out specialized management and organizational studies, examining resource levels and personnel deployment, making required recommendations for improved efficiency and effectiveness of programs. Maintains primary liaison with OMB in reviewing the allocation of personnel and fiscal resources for the entire drug program.

To support the 14 professionals - 8 clerical staff are required.

ODAP BUDGET

Salaries	607,273	
Benefits	<u>60,727</u>	
Total Salaries and Benefits		668,000
Consultants and Special Studies		325,000
Travel (staff and special consultants)		102,000
Rent		25,000
Printing and Reproduction (annual report/ <u>Federal Strategy</u>)		60,000
Supplies and materials		20,000
Equipment		15,000
Furniture		60,000
Communications/Telephones		35,000
Subscriptions and Miscellaneous		<u>10,000</u>
		1,320,000

The original appropriation was for \$2 million per year.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: February 4, 1977

Time:

FOR ACTION:

cc (for information):

✓ Richard Gorden attached 2/4
Bob Lipschitz
ZB - OK

FROM THE STAFF SECRETARY

DUE: Date: Monday, February 7, 1977

Time: 10:00 A.M.

SUBJECT:

Peter Bourne memo 2/3/77 re
Implementation of Office of Drug Abuse
Policy.

ACTION REQUESTED:

___ For Necessary Action

☒ For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

☒ For Your Comments

___ Draft Remarks

REMARKS:

ZB - OK

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary's office.

RICK HUTCHESON
STAFF SECRETARY

THE WHITE HOUSE
WASHINGTON

February 7, 1977

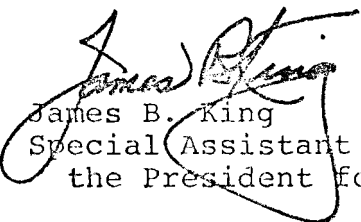
The Honorable Michael Blumenthal
Secretary
Department of the Treasury
15th and Pennsylvania Avenue, NW
Washington, DC 20220

Dear Secretary Blumenthal:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,



James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Michael Blumenthal/
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Executive level

Doug Coulter

Senior level

Bob Brown
Nicholas Hollis
Larry Kieves
Rich Reiman

Mid-level

Enrique Cancino
Tim Davis
Tom Dawson
Chris Fox

Entry level

Larry Batson
Charles Smith
Salome Williams

ok
J.C.

THE WHITE HOUSE
WASHINGTON

February 7, 1977

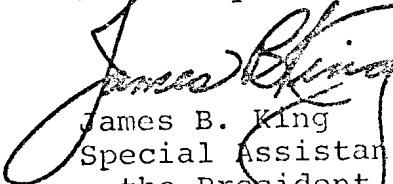
The Honorable Harold Brown
Secretary
Department of Defense
The Pentagon
Washington, D. C. 20301

Dear Secretary Brown:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. King". The signature is fluid and cursive, with a large loop at the end.

James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Harold Brown/
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Mid-level

Jean Carter
Frank Martin
Betty B. Mayo
Mary Burch Nirmaier
David Welsh

ok
J.C.

Entry level

Carol Johnston
Sonja Lyle
Jane Sanders

THE WHITE HOUSE
WASHINGTON

February 7, 1977

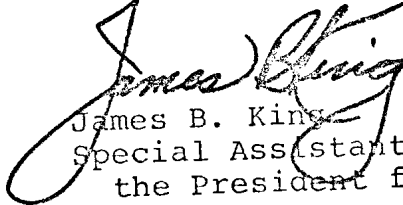
The Honorable Brockman Adams
Secretary
Department of Transportation
400 Seventh Street, SW
Washington, D. C. 20590

Dear Secretary Adams:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. King". The signature is stylized with a large, sweeping initial "J" and a long, horizontal stroke extending to the right.

James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Brockman Adams/
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "A" and NEA positions:

Executive level

Gerrard Glick

Senior level

Greg Andrews
Ruth Berry

ok
J.C.

Mid-level

Chip Bishop
Mark Brand
Geoff Fay
Steve Gales
Carol Jordan
Jim Kornreich
Mary Lopatto
Marcia McAllister
Julia Pennington
Ken Wightman

Entry level

Cindy Blake
Melana Haff
Chris Murray

THE WHITE HOUSE

WASHINGTON

February 7, 1977

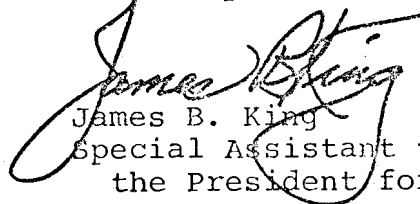
The Honorable Robert S. Bergland
Secretary
Department of Agriculture
14th Street and Independence Avenue, S.W.
Washington, D.C. 20250

Dear Secretary Bergland:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. King", is written over the typed name and title.

James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Robert S. Berglan
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Senior level

Syd Butler
Carlton Neville
Karen Voight
Jane Wales

Mid-level

Curtis Allen
Ray Blazier
John Boykin
Margaret Dostal
Marcus Kunian
Mary Lansing
Dale Leibach
Alan Miller
Story Shem

Entry level

Elin Peltz

ok
J.C.

THE WHITE HOUSE
WASHINGTON

February 7, 1977

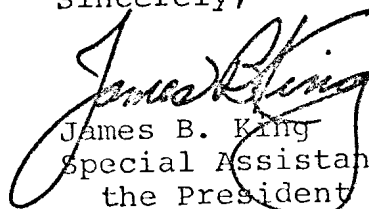
Mr. Stephen M. DuBrul, Jr.
President and Chairman
Export-Import Bank
811 Vermont Avenue, NW #1215
Washington, D. C. 20571

Dear Mr. DuBrul:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,



James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

Mr. Stephen M. Dubrul, Jr./
James B. King

February 7, 1977

Referral of an individual available for appointment
to an NEA position:

Executive level

Leonard Mitchell

ok
J.C.

THE WHITE HOUSE
WASHINGTON

February 7, 1977

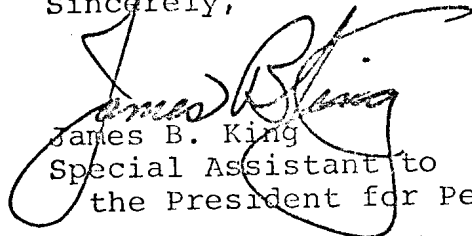
The Honorable Joseph A. Califano, Jr.
Secretary
Department of Health, Education, and Welfare
330 Independence, SW
Washington, D. C. 20201

Dear Secretary Califano:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,


James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Joseph A. Califano, Jr.
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Executive Level

James Clarke
Herman Gallegos
Sharlene Hirsch

Senior Level

Larry Allison
Joe Bernal
Marco C. Carnivale
Paul Costello
Sara Craig
David Hampson
Kenneth Hays
Barbara Kuban
Susan McCaffray
Al Pimentel
Terry Sundy
David Ushio
Alex Walsh

Entry Level

Marvelle Edelin
Richard M. Eggers
Mark Farmer
Patricia Minger
Karen Veek

Mid-Level

Phyllis Banish
Mary Batt
Ellen Berlow
Patty Butler
Lillian Clark
James Delorme
Bernice Dorsett
Diane Elmes
Lillie Fitzgerald
Rita Hill
Ronnie Kaplan
Richard Kennedy
Betsy Lieblich
Robert Lohse
Pat Maloney
Sheila Mooney
Carol Payne
Wayne Rackoff
Catherine Scott
Frank Shuler
Peggy Smith
Barbara Steck
Mark Weiner

ok
J.C.

THE WHITE HOUSE
WASHINGTON

February 7, 1977

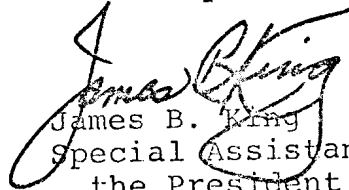
The Honorable Ray Marshall
Secretary
Department of Labor
200 Constitution Avenue, N.W.
Washington, D. C. 20210

Dear Secretary Marshall:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. King". The signature is stylized with a large, sweeping "J" and "K".

James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Ray Marshall/
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Executive level

Gary Lefkowitz
Van Swift

Senior level

Joji Konoshima
James Riley

Mid-level

Stephanie McWoods
James Mitchell
Sandy Wallace

Entry level

Mike Grant
Malinda Howard

ok
J.C.

THE WHITE HOUSE
WASHINGTON

February 7, 1977

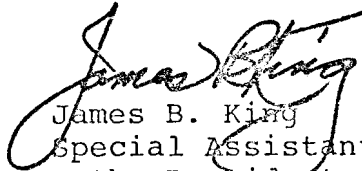
The Honorable Juanita M. Kreps
Secretary
Department of Commerce
14th Street and Constitution Avenue, N.W.
Washington, D. C. 20230

Dear Secretary Kreps:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. King". The signature is fluid and cursive, with the first name "James" and last name "King" clearly distinguishable.

James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Juanita M. Kreps/
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Executive level

Sam Bleicher

Senior level

Larry Acciari
Irene Adrian
Griff Ellison
Peter Emerson
Curt Moffatt
Joe Norton

ok
J.C.

Mid-level

Carmel Giancola
Phil Hall
Ron Hemphill
Bill Hudson
Seth Jacobson
Dick Munn
Carl Shepard
Robert Shipley
Michael Smith
Noel Sterrett
Cathy Taber
Cheryl Wells

Entry level

Charles Hunnicutt

THE WHITE HOUSE
WASHINGTON

February 7, 1977

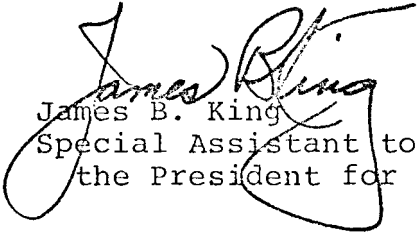
The Honorable Patricia Roberts Harris
Secretary
Department of Housing and Urban Development
451 Seventh Street, SW
Washington, D. C. 20410

Dear Secretary Harris:

Enclosed is a comprehensive listing of individuals referred for consideration for appointment to non-competitive Civil Service positions.

Please advise me as to any actions taken concerning these individuals, and refer any questions to me or to Jim Gammill at 456-2995.

Sincerely,


James B. King
Special Assistant to
the President for Personnel

Enclosure

cc: Hamilton Jordan
Richard Moe

Enclosure

The Honorable Patricia Roberts Harris
James B. King

February 7, 1977

Referral of individuals available for appointment to
Schedule "C" and NEA positions:

Executive Level

Elmer Cooper
Dick Fleming

Senior Level

Barbara Brown
Bob Etchison
Lisa Farrell
David Joyner
Randy Kinder

*ok
J. C.*

Mid-Level

Gail H. Carroll
Cary Gold
Tom Goodwin
Peter Jones
Howie Liebowitz
Bill Millkey
Katherine Parks
Dennis Scardilli

Entry Level

Fran Anderson
Pat Etzell
June Frazier
Eleanor Howard
Frieda Jackson
Jane Kress
William Megaro
Sally Regal
Mary Miles Scott

THE WHITE HOUSE
WASHINGTON

2-8-77

To Cabinet Officers

You have background data on persons recommended. Use your own judgment on level of placement - in jobs that need to be filled - on a trial basis.

Please let Ham know about any problems.

Jimmy

See Feb. 10, 1977

+

TO: THE PRESIDENT

FROM: HAMILTON JORDAN

RE: PLACEMENT OF CAMPAIGN/TRANSITION/INAUGURAL PERSONNEL

Please find attached the letters and lists of persons being referred.

You should initial "O.K. JC" on the actual lists.

These persons are being referred for placement on a 90 day basis. At that time, they can be terminated or converted to a permanent status.

You will not recognize many of the names - I don't know some of these people myself. You will have to realize that we have 1100 employees in the general election, a couple of hundred in the transition and several hundred at the inaugural office.

We will have to negotiate out salary levels and other things. Probably only 60-70% of these will find permanent jobs. They certainly all deserve a 90 day test.

THE WHITE HOUSE
WASHINGTON

2/8/77

To Merle Bergman

I'm sorry you
didn't get the
promised inaugural
invitation.

Yours gracious
to forgive me -

Jimmy

February 8, 1977
3:25 p.m.

Telephone Call from Bob Strauss

Message as follows:

Report card for President Carter
February 8, 1977
A+ (This is the First A+ given in this Course.)

(he also said you were getting too damned good!)

To Bob Strauss:

This is the first A+ you've
ever given me - even when I
won the nomination on the
first ballot. Thanks! You
deserve another family photograph.

Jimmy

THE WHITE HOUSE
WASHINGTON

cc Ham
+ file

Ri
I
di
tr

THE WHITE HOUSE
WASHINGTON

February 8, 1977

Z. Brzezinski

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

re: International Boycott
Legislation

THE WHITE HOUSE
WASHINGTON

cc
whole packet
to Brz

THE WHITE HOUSE
WASHINGTON

2/7/77

Mr. President:

Per your request, the views of several advisors are attached on the subject of International Boycott Legislation.

I suggest that you read the comments by Brzezinski and Vance, and my summary of other comments by:

The Vice President
Stu Eizenstat
Bob Lipshutz
Griffin Bell
Mike Blumenthal
Mark Siegel

I don't believe you need to read the full statement of views by the above list (which is attached), and suggest that you refer the attachments to Brzezinski and Vance during this period that a policy is being worked out.

Rick

DEFER

THE PRESIDENT HAS SEEN.

INTERNATIONAL BOYCOTT LEGISLATION

cc: Vance
Bell
Buzginski.
Blumenthal
VP
Please Comment
J.C.

Congress is about to consider legislation extending the Export Administration Act. Unfortunately, some elements contained in the various anti-boycott legislative proposals go beyond what is necessary and could hamper the efforts of the new Administration to bring about a just and lasting peace in the Middle East. In addition, these measures would place American industry at a serious competitive disadvantage in this area and make it impossible for many multinational companies to conform to the laws of the host companies within which they operate and threaten the already fragile U.S. energy supply -- all of which pose real dangers to world peace.

Initially, the boycott must be recognized as a manifestation of the continuing conflict between the State of Israel and the Arab nations. Clearly, the boycott cannot be eliminated except in the broader context of a settlement of the dispute which gave rise to it. The propriety of any additional anti-boycott legislation, therefore, must be evaluated on the basis of its likely effect on our ability to help maintain peace.

To a large extent, our ability to maintain peace in this part of the world depends on our maintaining cooperative economic and diplomatic relations with all nations involved. The goodwill and confidence which we have established with many Arab nations is based in large measure on our developed and growing commercial relationships. Some aspects of the current legislative proposals would make it difficult or impossible for U.S. concerns to do business in the Middle East.

There currently exist sufficient laws and regulations - both state and federal - to deal with the problem of compliance and participation by U.S. concerns with the secondary and tertiary aspects of the Arab boycott. The recent enactment of the international boycott amendment to the tax code, newly amended federal regulations requiring disclosure of boycott compliance, the increasing

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DATE 10/10/03 BY 60322

number of state laws which seek to regulate boycott compliance activities and application of federal anti-trust laws to boycott participation are some examples.

If, however, the Administration and the Congress are convinced of the need for additional legislation in this area, the following elements should be included in an effort to develop a consistent national policy toward foreign boycotts:

1. It should be illegal for a U.S. person (individual, firm or corporation) to enter into any agreement that stipulates, as a condition of doing business with or in a foreign country to:
 - (a) discriminate against any U.S. individual on the basis of race, religion, creed, color or national origin;
 - (b) furnish information on any U.S. individual's race, religion, creed, color or national origin;
 - (c) furnish information on another U.S. person's business relationships;
 - (d) refuse to do business with any U.S. person; and
 - (e) refuse to do business with or in any other foreign country.
2. It should recognize the sovereign right of a country to:
 - refuse to deal with other nations;
 - control its imports and exports from and to any source;
 - regulate the admission of people into its territory; and
 - admit or exclude any ships intending to call at its ports.

3. There should be no extra-territoriality, i.e. U.S. policy should not attempt to control the actions of foreign firms owned or controlled by U.S. companies. This avoids the possibility of putting overseas U.S. subsidiaries and affiliates in possible conflict with foreign laws or policies when they differ from those of the United States. U.S. concerns, however, should not be permitted to circumvent the law by engaging in proscribed activities through subsidiaries and affiliates overseas.
4. Federal legislation should provide for specific preemption of state statutes that regulate involvement in foreign boycotts. The U.S. constitution mandates that the power to control foreign commerce and international relations is a federal responsibility. NY
Law?
5. An exception should be made to allow U.S. persons to implement letters of credit consistent with the national policy towards foreign boycotts enumerated herein.
6. Federal regulatory reporting requirements should be made uniform to avoid confusing and unnecessary duplication. The goal of reporting and disclosure should be to supply the federal government with information necessary to assess boycott compliance while avoiding publication of routine participation where unjust criticism results.

THE WHITE HOUSE
WASHINGTON

0317

MEMORANDUM FOR: RICK HUTCHESON
FROM: ZBIGNIEW BRZEZINSKI *Zb*
SUBJECT: International Boycott Legislation

I have carefully reviewed the points in the memorandum entitled "International Boycott Legislation." On the whole, I concur with the assessment of the possible foreign policy consequences of a poorly drafted anti-boycott bill. It is important that any legislation on this topic avoid an adverse effect on our Middle East diplomacy and not disadvantage legitimate American business activities abroad.

Rather than trying to prevent Congressional action on the boycott, we must develop a coherent Administration position so that we will be able to work with Congress to produce an acceptable bill. The specific guidelines in the memorandum are a useful checklist. They will be fully reviewed by an interagency group that I am convening this week. I also plan to develop a strategy for trying to persuade the Arab nations to moderate the most objectionable aspects of the boycott.

The Policy Review Committee met on February 4 to discuss the anti-boycott legislation, among other topics. Secretary Vance has agreed to appear before Senator Stevenson's Subcommittee on March 1. In between, we will make a major effort to develop an effective Administration position. The Secretaries of Treasury and Commerce will be consulting with key members of Congress on the anti-boycott legislation in the coming weeks. Once approved by the President, we will develop an approach to explain this to the Arabs in such a way as to avoid adverse foreign policy and economic consequences. I will keep the President fully informed of progress.

THE SECRETARY OF STATE
WASHINGTON

February 6, 1977

UNCLASSIFIED

MEMORANDUM FOR: THE PRESIDENT
From: Cyrus Vance *cv*
Subject: International Boycott Legislation

The paper sent me for comment treats the relationship of anti-boycott legislation to United States political and economic interests in terms which seem essentially sound. There are risks to these interests that must be mitigated in carrying out U.S. anti-boycott policy. The paper raises other important points, which are being considered in our present urgent review of the boycott problem. For example:

-- The extra-territorial reach of the current legislative proposals is troubling;

-- Differing standards of conduct in anti-trust, tax and export laws bearing on the same range of commercial activities, and overlapping and redundant enforcement efforts and reporting requirements, are undesirable; and

-- There is a clear practical and political need and sound legal basis for federal pre-emption of scattered and inconsistent state efforts in the field.

The paper proposes adopting in essence the controversial and not entirely satisfactory Tax Reform Act standard of conduct -- and is far short of current legislative proposals. On the separate issue of religious, racial or ethnic discrimination, the paper proposes a standard of prohibited conduct which falls

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short of existing U.S. regulations. (Given the statements by Arab Governments that the boycott of Israel is not discriminatory and the near-absence of discriminatory boycott requests, enactment of strong anti-discrimination legislation should have no impact on U.S. political or business interests in the Middle East.) However, on the boycott issues, we need to consider alternatives -- perhaps going more directly to the heart of the secondary boycott problem and use of United States institutions for foreign boycott enforcement.

This is being done in conjunction with the other interested Departments and agencies as a part of the Middle East Presidential Review Memorandum study. This will be compiled by the time of my return from the Middle East.

UNCLASSIFIED

VIEWS OF VARIOUS ADVISORS ON THE INTERNATIONAL BOYCOTT
LEGISLATION PROPOSAL

1. The Vice President.

Vance is developing a recommended position in the context of his Middle East trip -- in time for testimony before the Proxmire Committee February 28.

We should work with Congress on legislation that satisfies our mutual anti-boycott objectives without too great an adverse impact on the Middle East negotiations.

Work with Congress has begun. State, Treasury and Commerce are consulting with congressional bill sponsors -- Proxmire, Williams, Rosenthal, Bingham.

2. Stu Eizenstat.

During the Campaign you indicated your support for legislation to prohibit participation by US concerns with secondary and tertiary aspects of the Arab boycott. That position should be maintained.

3. Bob Lipshutz.

The Congress and Executive Branch have agreed to delay this matter until Secretary Vance's Middle East trip. At that time the Administration should present a positive legislative program.

From a domestic political point of view, anti-boycott legislation should be accompanied by legislation recognizing the legitimate rights of all parties in this country and in the Middle East, and presenting at least one specific proposal for a permanent Middle East settlement.

4. Department of Justice.

Recommends that the Administration draft and submit new legislation to deal with international boycotts within the next 45 days.

Prohibitions should focus on activity which furthers economic and religious discrimination against US persons rather than just entering into an agreement.

5. Mike Blumenthal.

Emphasizes that there is considerable distrust in Congress of the previous Administration's sincerity in implementing the intent of Congress.

We should conclude our current review of the boycott regulations, and modify them to reflect more fully the intent of Congress. In exhibiting good faith, we can ask Congress to postpone legislation which the Administration undertakes Middle East peace efforts.

However, if Congress shows signs of seriously moving ahead with new legislative proposals, we should then submit an Administration bill and clearly regain control of the issue.

6. Mark Siegel.

Suggests a review of policy before any action is taken.

~~CONFIDENTIAL~~

From:
The Vice President

BOYCOTT LEGISLATION

TALKING POINTS

1. Anti-boycott bills have been introduced in both Houses of the Congress; an early Administration position is required.
2. Cy Vance addressed the problem during a Presidential Review Committee on the Middle East last week. He will be developing a recommended position for you both in the context of decisions required for his mission to the Middle East -- and for Administration testimony before the Proxmire Committee on February 28.
3. I think the Administration and the Congress are in fundamental agreement. Arab boycotts aimed at Americans dealing with Israel cannot be accepted by the American people.
4. At the same time, we have to deal with this in a way that does not sabotage Arab participation in the Middle East settlement effort.
5. Our basic approach should be to work with the Congress on legislation that satisfies our anti-boycott objectives without too great an adverse impact on the Middle East negotiations.
6. Vance should impress upon the Arabs during his mission the need for a constructive approach.
7. Work with the Congress has begun. State, Treasury and Commerce are consulting with the bill sponsors -- Senators Proxmire and Williams and Representatives Rosenthal and Bingham.

~~CONFIDENTIAL~~

THE WHITE HOUSE
WASHINGTON

February 4, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

STU EIZENSTAT

Stu

SUBJECT:

International Boycott Legislation

During the campaign the boycott question became a significant campaign issue and was mentioned in various statements and during the debates.

We indicated our support for legislation to prohibit participation by U.S. concerns with secondary and tertiary aspects of the Arab boycott. This would make it illegal for U.S. companies to enter into an agreement which stipulated as a condition for doing business with an Arab country that they discriminate against any U.S. citizen on the basis of his religion, race or national origin; it would further make it illegal to signify their intention not to do business with the State of Israel as a condition of doing business with the Arab country.

During the campaign, we indicated support for the anti-boycott legislation which was tied-up in a House-Senate conference last session, and which did not pass out because Senator Tower refused to appoint Senate conferees.


It seems to me that it is important both politically and substantively to maintain that position and to continue to support the legislation in its form before the Conference Committee.

THE WHITE HOUSE

WASHINGTON

February 6, 1977

MEMORANDUM FOR THE PRESIDENT

FROM: Bob Lipshutz 
SUBJECT: International Boycott Legislation

I have reviewed the memorandum initially submitted to you and to each of us for comment, with reference to this matter.

It is my understanding that all of the parties concerned, both in the Executive Department and in Congress, agreed to delay this matter in the Congress until Secretary Vance has had an opportunity to complete his trip to the Middle East and report back to you.

This matter, as you are aware, not only is of great concern to a large number of people, but also is sufficiently complex to make it difficult for most people to understand and fully comprehend.

I am attaching hereto two memorandums which you might wish to read yourself or forward to others who are involved in the matter for their use:

1. A memorandum from Arnold Forster of the Anti Defamation League of B'nai B'rith dated January 5, 1977, attaching an analysis dated December 14, 1976.

2. A memorandum dated February 1977 given to me by others who are quite concerned with the matter.

With reference to the internal memo which was submitted to you previously, I would urge that, after allowing for an appropriate

page 2

review of Secretary Vance's trip to the Middle East, the Administration present a positive legislative program, perhaps along the lines set out in paragraphs 1, 2, 3 and 6 of the internal memo.

With reference to paragraphs 4 and 5 of this memo, my initial reaction is negative.

Furthermore, if possible, I suggest that it would be worthwhile both from a domestic political point of view and from an international, diplomatic point of view, to accompany such legislative proposal with other proposals: (1) which recognize the legitimate rights of all parties in this country and in the Middle East, and (2) which present at least one specific proposal for advancing the course of negotiations towards a peaceful and permanent settlement of the conflict in that area of the world; at this time I personally can not offer such specific proposals.



Office of the Attorney General
Washington, D. C.

February 4, 1977

MEMORANDUM FOR THE PRESIDENT

Re: International Boycott Legislation

This memorandum is in response to your request for comments on the outline for proposed international boycott legislation circulated on February 3, 1977.

1. The Present Status of the Law

The Export Administration Act expired in the last session of Congress. Since September 30, 1976, its provisions have been continued in effect by Executive Order.

The Export Administration Act has been administered by the Department of Commerce for many years. New legislation, such as S. 69 (the Stevenson bill), and S. 92 (the Williams bill), would give the Department of Commerce broad new responsibilities for enforcement against international boycotts. At the present time the Department of Justice is involved in implementing and enforcing the Export Administration Act only when the Commerce Department requests that Justice, on its behalf, seek civil or criminal sanctions against violators.

We assume that legislation is to be enacted to revive and extend the Export Administration Act. The question is to what extent that Act should be amended to impose new limits on U.S. enterprises which do business in the Middle East, and to establish new enforcement machinery in the Department of Commerce to impose these limitations.

2. Recommendation

We recommend that this Administration draft and submit new legislation to deal with international boycotts within the next 45 days. This legislation should have as its objective the statement and enforcement of the national policy toward foreign boycotts set forth in the memorandum (subject to the modifications discussed below). While we defer to others on the foreign policy implications of new

legislation, the memorandum seems to state a national policy which can balance the needs of American enterprises to do business in the Middle East, the diplomatic need to maintain broad freedom of action to seek Middle East peace, and the desires of many American people and many in the Congress that one class of U.S. citizens not be the victims of economic and religious discrimination in our country as the result of the acts of other American citizens.

A 45 day period should be sufficient time for careful drafting. If it is decided to delay new legislation for a longer period, the Department is capable of pursuing antitrust enforcement against boycott-related economic discrimination in the interim.

3. Comments on Outline of Proposed Legislation

Para. 1 - (a) Prohibitions should focus on activity which furthers economic and religious discrimination against U.S. persons rather than just entering into an agreement. (b) The prohibitions such as furnishing information on another U.S. person's business relationships, should be limited to conduct which furthers or is intended to further a proscribed boycott. (c) Legislation should exempt boycott compliance that is required or permitted by the U.S. (e.g., participation in boycott of Rhodesia). (d) New legislation should state that it does not preclude or limit the application of the antitrust laws to such conduct.

Para. 2 - It should be made clear that foreign governments do not have a sovereign right to impose their law in our jurisdiction against our citizens.

Para. 3 - This might be better expressed as follows: U.S. policy should not attempt to control the actions of foreign firms, even those owned or controlled by U.S. companies, so long as those actions have no substantial adverse effect upon the rights of United States persons protected by United States law.

Para. 4 - A provision preempting state laws concerning foreign boycotts would be desirable. The constitutionality of such state laws is doubtful.

Para. 5 - The treatment of letters of credit is unclear. This is an important and controversial issue and new

legislation should specify what conduct by banks is permissible.

Para. 6 - Current Commerce Department regulations permit broader disclosure of boycott reports than is indicated by this paragraph. However, we do not object to the limits on disclosure suggested in this paragraph of the outline.

4. Question of Enforcement Responsibility

The new legislation so far introduced in Congress would continue both (a) administrative law enforcement within the Commerce Department and (b) civil and criminal enforcement in the courts. If the latter is used it will be the Justice Department that will act as the prosecutor. The placement of enforcement responsibility should depend in part on the type of statute to be enforced. If a statute can be drafted in clear prohibitory terms, there would be some advantage to placing enforcement responsibility in the Department of Justice with its litigation experience and capability. On the other hand, if a statute is created which seems more amenable to administrative enforcement, the Commerce Department would be the appropriate enforcement agency. We wish to study this issue further during the drafting period.



Griffin B. Bell
Attorney General



ACTION

THE SECRETARY OF THE TREASURY
WASHINGTON 20220

February 4, 1977

MEMORANDUM FOR THE PRESIDENT

FROM : W. Michael Blumenthal

SUBJECT: Comments on Memorandum on "International
Boycott Legislation"

The February 3 memorandum entitled "International Boycott Legislation" initially argues that additional anti-boycott legislation should not be enacted since there currently exist sufficient laws to deal with secondary and tertiary aspects of the Arab boycott and many of the new proposals could hamper U.S. efforts to bring about a Middle East peace agreement. However, there is considerable distrust in the Congress of the previous Administration's sincerity in implementing the intent of Congress. It is my belief that given your views, the best policy would be to conclude our current review of the boycott regulations implementing the Tax Reform Act of 1976 and modify them to reflect more fully the intent of Congress. In exhibiting good faith, in this way, we can then ask the Congress to postpone legislation while the Administration undertakes its Middle Eastern peace efforts. (This moratorium could be further reinforced if Secretary Vance could secure a de facto Arab moratorium suspending the most contentious aspects of their boycott, while the peace negotiations are in progress, e.g., requests of U.S. firms to refuse to deal with blacklisted firms and boycott clauses in letters of credit.)

If, notwithstanding the above, the Congress should now, or eventually, show signs of seriously moving ahead with new legislative proposals (which will still of course be pressed by some members), we should then submit an Administration bill and clearly regain control of the issue.

As to the content of the legislation, I largely agree with the principles outlined in the memo you sent me for comment. The memorandum emphasizes two basic elements:

1. As a condition of doing business, a U.S. person should not agree to furnish information on another U.S. person's business relationships or refuse to do business with a U.S. person or with or in any boycotted foreign country.
2. There should be recognition of the sovereign right of a country which includes the right to control its own imports and admit or exclude ships at its port.

On their face, these two basic elements which are also reflected in the Ribicoff Amendment and the Stevenson-Moynihan Bill are not controversial, but in fact when applied to actual boycott situations they overlap and contradict each other.

A clear example of this is that the Arab Government will not admit entry into their countries of products manufactured by blacklisted firms. Yet a U.S. firm could not assure the Arabs that only goods or services from blacklisted firms would be used in fulfilling a contract. This illustrates the importance of ensuring that legislation is carefully drawn.

At a meeting later today the Policy Review Committee will be discussing this matter in detail and our options.

Mike

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

MEMORANDUM TO THE PRESIDENT

FROM: MARK SIEGEL *hank*

DATE: FEBRUARY 5, 1977

SUBJECT: INTERNATIONAL BOYCOTT LEGISLATION

I have reviewed an unsigned draft on the subject with your hand written comments, and am troubled.

Primary, secondary, and tertiary boycotts, and the role of U. S. owned foreign companies, have been the subject of intense controversy over the last several years, especially with respect to the Commerce Department and the Justice Department inaction in enforcing what is on the books, and the Ford Administration testifying against legislation before Congress that would strengthen the prohibitions. Politically, the issue is important for several domestic reasons:

1. Intense feelings on this subject among American Jews and the powerful American Jewish lobby.
2. The marginality of our positive support among this crucial area of our constituency (especially in the Industrial belt, Northeast, and California).
3. Your comments in the second debate about the boycott and morality in foreign policy.
4. The need for coordination among various departments of your government and the White House itself on action.
5. Intensity of support in Congress for strengthening and enforcing boycott legislation.

In light of these factors, I believe that precipitous action is unwise, and could generate predictable reaction and certain unintended consequences that could weaken our political base. Therefore, I recommend the following:

MEMORANDUM TO THE PRESIDENT
FROM: MARK SIEGEL
PAGE TWO

1. No immediate action on the draft presented to you.
2. The immediate establishment of an internal Task Force on this issue to be made up of Vance, Brzezinski, Kreps, Bell, Blumenthal, the Vice President, and Bob Lipshutz and possibly Moore and Jordan. This Task Force should be mandated to review the issue and report back to you, time certain (February 21?).
3. Liaison between the Task Force (or if no Task Force, then with the primary personnel responsible in this area) with the most active spokesmen on the Hill in this area -- two obvious members are Senator Ribicoff and Congressman Benjamin Rosenthal of New York (they have written and lobbied extensively for legislation to strengthen and enforce).

ANTI-BOYCOTT LEGISLATION

I. ANTI-BOYCOTT LEGISLATION IN HOUSE AND SENATE

Legislation prohibiting compliance with secondary and tertiary Arab boycott requirements was introduced in both houses of Congress. Identical bills renewing the lapsed Export Administration Act (EAA) with toughened anti-boycott provisions were introduced by Reps. Bingham and Rosenthal and Senators Williams and Proxmire in early January. Except for one significant change the proposed anti-boycott provisions are based on an informal Senate-House conference compromise reached at the end of the 94th Congress. Despite overwhelming support, final congressional action was then blocked by parliamentary maneuvers engineered by Sen. Tower with Ford Administration support.

Brief hearings in mid-February are planned separately by the House International Relations Committee and the Senate Banking Subcommittee on International Finance. Carter administration officials will be invited to testify before both panels. Congressional sources indicate a willingness to agree to a short postponement if the new administration requests additional time for preparation.

Proposed legislation:

A. House

H.R. 1561. Introduced by Reps. Bingham and Rosenthal, this bill has broad support and includes among its cosponsors Reps. Zablocki and Findley. It is expected to be the key legislative vehicle for House anti-boycott action. Under its terms:

1. Statement of policy - U.S. policy is opposed to foreign boycotts against friendly countries; and U.S. firms are encouraged and in specified cases required to refuse action, including furnishing information, in support of such boycotts. (In the past U.S. firms were encouraged but only requested not to comply.)
2. Prohibited boycott related actions (countries not specified)
 - secondary boycott compliance: refraining from a business relationship with Israel (pursuant to a boycott agreement, requirement or request)
 - tertiary boycott compliance: refraining from a business relationship with a blacklisted non-Israeli firm
 - furnishing information on business relationships with Israel or non-Israeli blacklisted companies, or on the religion, national origin ... of a U.S. person
 - employment discrimination against any U.S. person based on race, religion, national origin ...
 - Exceptions: permitted actions
 - compliance with primary boycott requirements (e.g. not to import goods from Israel to Arab countries or export goods from Arab countries to Israel; not to ship on an Israeli vessel or deviate from a prescribed route).
 - compliance with import/shipping documents requesting a positive designation of country of origin (i.e. goods are of U.S. origin). Unlike the informal Senate-House conference draft, compliance with negative certificates of origin (i.e. components/goods are not of Israeli origin would now be prohibited). Firms may also provide the name of carrier, route of shipment and name of supplier.

- 2-
- refusal by U.S. banks to pay a letter of credit to the beneficiary if it does not comply with abovementioned (permitted) boycott requests.
 - effective date - not later than 90 days after enactment; for contracts already in effect by then, an additional 90 days.

3. Mandatory reporting and public disclosure of boycott requests and compliance intentions.

Proprietary business information may be kept confidential by the Commerce Secretary if so requested.

4. Penalties

Civil/criminal - fines for first time violators are increased from \$10,000 to \$25,000 (and/or maximum one-year imprisonment). Subsequent violators are fined \$50,000, up from \$20,000 (and/or maximum five-years imprisonment). Civil penalties imposed by a government agency are raised from \$1,000 to \$10,000.

Suspension or revocation of export license explicitly cited as possible sanction for violations.

5. Semi-annual reports by the Commerce Department - to the President and Congress on administration of the EAA and its anti-boycott regulations, including a description of actions by the President and the Commerce Secretary to implement U.S. policy in opposition to boycotts. The Executive is not authorized to withhold any information obtained under the EAA from Congress.

B. Senate

S. 92. Sponsored by Sens. Williams and Proxmire, it is identical to the anti-boycott provisions of H.R. 1561. This bill is expected to be the major legislative vehicle for Senate action.

S. 69. Sponsored by Sen. Stevenson. This bill is very similar to S.92/H.R. 1561, and like them is based on the informal Senate-House conference language worked out last September. The major difference is that the Stevenson bill would allow firms to comply with negative certificate of origin requests. (For reporting purposes the Commerce Department distinguishes between positive and negative certificates of origin, viewing the latter as a boycott-related request which must be reported.)

II. CARTER CABINET DESIGNESS DISCUSS ANTI-BOYCOTT STANCE AT CONFIRMATION HEARINGS

A. Commerce Secretary-Designate supports new anti-boycott legislation

Juanita Kreps, responding to a question on the new Administration's attitude toward the reintroduction of anti-boycott legislation said "There is no question that this administration is on record as supporting legislation to strengthen our position vis a vis the Arab boycott. I find this not only acceptable but desirable." (1/10/77 before the Senate Commerce Committee.)

- B. Treasury Secretary-Designate supports anti-boycott provisions of Tax Reform Act (TRA) and promises to review implementing guidelines proposed by Treasury, but criticized by Sen. Ribicoff

In his confirmation hearing before the Senate Finance Committee, W. Michael Blumenthal said he "welcomed" Ribicoff's amendment denying certain foreign tax benefits to firms participating in the Arab boycott and saw no need to modify that position despite growing U.S. reliance on Arab oil. Saying that he was "strongly opposed to these sorts of boycotts" Blumenthal explained "the U.S. should never be afraid to speak clearly on a matter on which we feel strongly...if we explain that for other nations...they will respect us for it." Blumenthal also said that one of his first priorities would be to review proposed Treasury guidelines to the anti-boycott provisions. These guidelines, drawn up under the coordination of former Assistant Treasury Secretary Gerald Parks, undermine the substance and intent of the legislation according to its principal author Sen. Ribicoff. Final regulations were left for the Carter Administration to draft. (1/12/77)

- C. Secretary of State-Designate makes no specific commitments on new anti-boycott legislation

Cyrus Vance said the Carter administration will fully enforce existing anti-boycott laws including the Ribicoff amendment to the TRA. However, new legislation would be studied in relation to U.S. Mideast policy he said. (1/11/77 at the Senate Foreign Relations Committee).

(There has been some speculation that the Carter Administration might consider requesting a delay in anti-boycott legislation pending Mideast negotiations.)

- D. Carter reaffirms Campaign promise to fight Arab boycott in December 16 message to American Jewish Congress

In his statement, Carter said there was "no room in the international arena" for "foreign discrimination" against Americans "on grounds of their race, religion or the countries with which they trade...I deplore it and want to work with you to end it."

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ANTI-DEFAMATION LEAGUE

OF B'NAI B'RITH

315 Lexington Avenue

New York, N. Y. 10016

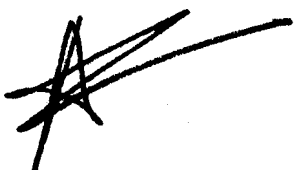
MEMORANDUM

To: Civil Rights Division Staff in New York and Area Coordinators
From: Arnold Forster
Date: January 5, 1977
Subject:

I commend to your attention a workmanlike summary of the status of the legislative campaign effort against the Arab boycott. A careful reading will enable you to know the answers to many questions that may confront you as the Congress enters into its 95th session and ADL girds its loins to educate on the need for an effective law.

AF:le

cc: Seymour Graubard
Burton Joseph
Benjamin R. Epstein
Civil Rights Executive Committee
Law Committee
Middle Eastern Affairs Committee



RESEARCH PROJECT ON ENERGY
AND ECONOMIC POLICY
Washington, D.C.

December 14, 1976

MEMO

TO: STEERING COMMITTEE
FROM: JESS N. HORDES

BOYCOTT RELATED MATTERS

I. President Elect Carter Committed to Strong Anti Boycott Legislation and Enforcement

In a variety of forums during the campaign Carter made the following statements:

On the Arab boycott: "I'll do everything I can as President to stop the boycott of American businesses by the Arab countries. It's not a matter of diplomacy or trade with me. It's a matter of morality." 10/6/76

On anti boycott legislation: "I believe it is important to have legislation which outlaws both discrimination against Americans on grounds of religion or nationality and secondary boycotts against companies which trade with Israel. This is a profound moral issue which we should not shirk." 9/30/76
(Carter also favored prohibiting tertiary boycott compliance and supported anti boycott provisions of the Tax Reform Act.)

On enforcement: "I believe that there must be effective implementation of (anti boycott) laws by the executive branch. I would make sure that the government applies these laws vigorously." 10/18/76

II. Export Administration Act (EAA) Renewal

Congress is expected to act early next session on renewing the EAA with toughened anti boycott provisions.

Background: Despite overwhelming Congressional support the legislation was blocked in the waning moments of the last session by maneuvers of Sen. Tower supported by the Ford Administration. At that time House-Senate "conferees" who had successfully reconciled differences in their respective anti boycott provisions were prevented from acting officially or getting a floor vote.

Prospects: The bill's key sponsors - Sen. Stevenson and Reps. Bingham and Rosenthal - are committed to expedited legislative consideration and intend to press for early action. Hearings are expected and some business opposition is likely. What role, if any, the Carter administration will play is not yet known. Although the compromise language worked out in "conference" is expected to serve as the basis for renewed legislation, sources indicate the wording will be reviewed to ensure that unintended loopholes are eliminated.

Provisions: As agreed to by the "conferees" the EAA would prohibit compliance - including furnishing of information and action with intent to comply - with the secondary boycott. The tertiary boycott and boycott induced religious discrimination would also be barred. However the compromise draft specifies a number of exceptions to the general prohibitions and it is aspects of one or more of these which are expected to come under careful scrutiny.

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IV. Commerce Dept. Boycott Disclosure (cont)

B. Rationale (cont)

- Sec. Richardson stressed the educational role of the disclosure program to clarify the nature of the boycott. He emphasized to a House subcommittee that compliance can mean a range of things including furnishing information without altering business practices to actively boycott Israel. "In addition, while the public believes that the boycott is in significant measure motivated by discriminatory animus against members of the Jewish faith, this simply does not appear to be the case."

C. Compliance

- Until initiation of the disclosure program, the Department published only aggregate statistical information on boycott requests and compliance. In its last report, covering the second quarter of 1976, figures indicate that U.S. exporters complied with boycott related requests in over 94% of the transactions they were asked to. There was also a sharp growth in the number of firms reporting boycott requests and the number and dollar value of boycott affected transactions. Third quarter statistics are expected to be released soon.
- The data developed since Oct. 7 when Commerce opened actual boycott reports to public inspection confirms the previous statistical material showing nearly all U.S. companies filing reports are honoring boycott requests.

D. Business Reaction

- Many firms listed as having responded to boycott requests complained that their actions did not constitute "compliance". A number pointed to their continuing business relationships with Israel; others said they were merely certifying facts (e.g. the origin of goods) and had not taken affirmative boycott action.

E. Commerce Department Response

The Commerce Department worked out a two pronged response - accomodating aspects of the corporate criticism while reaffirming that U.S. policy does not recognize distinctions in types of boycott assistance.

1. U.S. public policy reaffirmed.

Under the EAA and Regulations U.S. business are encouraged and requested to refuse "any action, including the furnishing of information" in support of foreign boycotts against friendly countries. Explaining Congress' rationale in an internal memo (Nov. 5), J.T. Smith, Commerce Dept. General Counsel wrote:

The purpose of the statute is to oppose the boycott by encouraging American firms to withhold the information needed for its operation.... The fact that many firms, in supplying such information are not in any way changing their course of business... is not relevant.... Firms which supply information regarding origin of goods ... etc. do help the Arab nations to operate the boycott system Accordingly the furnishing of any information in response to boycott related requests constitutes 'compliance.' If spokesmen in the Department place too much emphasis on 'qualitative distinctions' we will open ourselves to a charge that we are ... subverting national policy. While it is regrettable that some firms feel they are being treated unfairly ... it should be noted that such firms ... have certified ... that they have been willing to ignore a longstanding national policy of seeking to deny the Arabs the information needed to carry out the boycott.

V. Ribicoff Charges Treasury Department's Proposed Guidelines Subvert Anti Boycott Provisions of Tax Reform Act

- In a sharply worded letter to Sec. Simon, Ribicoff said the guidelines "not only ... failed to implement this important new law but ... /have/ seriously undermined it." Ribicoff, principal sponsor of the provision, characterized the interpretative guidelines as an "affront" to Congress which "narrowed the scope of the Act to the point where the vast majority of Americans participating in the boycott could continue their reprehensible practices ... without risking penalt/ies/" as now prescribed. He also accused Treasury of "providing a blue-print ... to circumvent a Federal statute," mapping out "precise ways" for a company to cooperate with the boycott without being subject to denial of tax benefits or reporting requirements. The Senator was especially critical of Ass. Sec. Parsky, a leading opponent of the amendment before and after its adoption, who nevertheless had major responsibility for developing the guidelines. He requested the Department to refrain from action to finalize them.
- The proposed guidelines were issued by Treasury Nov. 4 in question and answer form, posing hypothetical situations of boycott participation issues. Written comments are still invited and the guidelines may be changed in the future - although with no adverse retroactive effect. Final regulations will be published at a later date in accordance with a required administrative process which provides for additional public comment.
- Among the guidelines attacked by Ribicoff as "deliberately" frustrating the law's substance and intent were interpretations allowing, without tax penalties:
 - firms to refrain from dealing with Israel or Arab blacklisted companies if no explicit agreement to that effect was signed
 - firms to certify to an Arab nation that they had no business relationship with Israel or with blacklisted firms and that the exported goods were not manufactured by either
 - banks to process letters of credit containing boycott certification requirements
 - firms to refrain from dealing with other firms blacklisted by the Arabs for no known reason
 - firms to permit an Arab country to select or screen subcontractors for the sole purpose of furthering the boycott
- Industry lawyers, who had expressed concern over the anti boycott provisions at the time of enactment were relieved by Treasury's interpretations. (Mid East Markets 11/22/76; Businessweek 11/22/76) On the other hand, Paul Berger (Arnold and Porter), on behalf of the National Jewish Community Relations Advisory Council, a voluntary association of national and local Jewish organizations, submitted written comments to Treasury challenging many of its interpretations as inconsistent with the statute, its legislative history and broader U.S. legal principles.
- Background:

The Tax Reform Act, enacted by Congress Sept. 16 and signed reluctantly by Pres. Ford Oct. 4, contains provisions which deny certain foreign tax benefits to U.S. firms complying with the Arab boycott. The provisions, first introduced by Sen. Ribicoff, were amended somewhat by House-Senate conferees. (The Bill and proposed guidelines do not specify particular countries or boycotts.)

VI. States

A. California (cont)

2. Legal challenges (cont)

either an injunction against its enforcement or damages in excess of \$1 billion, their estimate of compliance costs.

3. Banks have begun to halt processing boycott tainted letters of credit in conformity with new state law.

- The California based Bank of America, citing the new statute, has stopped processing letters of credit and other documentary collections containing Arab boycott language. Interpreting the law as applying to where ever the bank does business, instructions were sent out to all the bank's U.S. offices and foreign branches. The United Bank of California also accelerated implementation of the provision.
- The Bank of America urged quick Federal action, noting that California corporations are placed in an unfair competitive position by the state law.
- California's Attorney General ruled in a recent opinion (11/24/76) that AB3080 applies to letters of credit but not to negative certificates of origin or confiscation/war risk shipping clauses they may contain. He viewed the negative certificate of origin clause as a primary boycott request outside the purview of the statute. (Note: See related item under "Massachusetts", page 9 .)

- Background

- Federal Export Administration regulations as amended December 1975 prohibit banks from processing letters of credit containing religious discrimination provisions but otherwise only require them to report receipt of (economic) boycott requests. U.S. policy encourages and requests firms to refuse to take any action, including the furnishing of information, in support of foreign boycotts against friendly countries.
- Arthur Burns, Chairman of the Federal Reserve Board, has stated that U.S. banks "play a crucial role in giving effect to the Arab boycott in this country," that bank participation "even passively" in such a boycott "is a misuse of the benefits and privileges conferred on banking institutions" and that processing boycott tainted letters of credit is "one specific abuse which contravenes the policy of the U.S." While expressing hope that diplomatic approaches will obviate the need for a legislative remedy, he also observed "the time has come for Congress to determine whether it is meaningful merely to 'encourage and request' U.S. banks not to give effect to the boycott." (These views were set forth in a December 1975 letter to the Presidents of Federal Reserve Banks and in a June 1976 letter to Rep. Rosenthal, Chairman of the House Government Operations subcommittee on Monetary Affairs.)
- Virtually all U.S. banks doing international business willingly handle letters of credit embodying economic boycott conditions, according to a report issued by Rosenthal's Committee in September 1976. On the basis of Commerce Department data the study shows that for the three month period between 4/1/76 and 6/30/76, 131 banks reported 8,026 letters of credit transactions involving 15,392 requests to confirm restrictive trade practices having a dollar value of \$479.8 million. The Bank of America, prior to its recent policy change, was cited for handling the largest number of these. Other banks cited include Morgan

VI. States

B. New York (cont)

because of their proximity to oil refineries and soybean growing areas are most strategically located to serve the bulk of U.S.-Arab commerce.

- Economists who follow New York cargo traffic figures recently confirmed that there has been no drop in total cargo tonnage shipped to the Arab world.

C. Maryland

- Baltimore Port likely to get Arab "project" cargoes despite State anti discrimination/boycott law
 - Trade and legal representatives of the Maryland Port Administration came away from meetings with Houston contractors and shippers heavily involved in U.S.-Arab trade, generally reassured that the Baltimore port will continue to be used after the State law takes effect (1/77). The purpose of the Houston trip was to answer questions about the new law and determine whether those shippers who control the greatest volume of high value cargoes would continue to use Baltimore.

(Baltimore Sun, 12/12/76)

(F.Y.I. 6% of the cargo moving through Baltimore in 1975 went to the Middle East. 82% of that went to Israel, Iran and Egypt.)

- According to newspaper accounts Fuad K. Taima, a Mid East trade expert who is establishing the Mid Atlantic U.S.-Arab Chamber of Commerce in Baltimore has assured local businessmen that despite the State anti boycott law, Arab trade representatives had indicated that "Arab nations are prepared to buy substantial volumes of goods and services from Maryland firms.... The need for business is so great it outweighs political barriers." (Baltimore Sun, 7/16/76)

D. Illinois

- Shipping industry observers in Chicago have not noticed any appreciable change in traffic patterns as a result of Illinois' recently enacted anti boycott/discrimination law. (Journal of Commerce, 10/18/76)

E. Massachusetts

- Governor issues Executive Order prohibiting businesses with state contracts from participating in the Arab boycott.

Under the order any company contracting with the State government after 1/1/77 for an amount of \$5,000 or more must agree not to participate in an international boycott. Otherwise the state can cancel the contract. A state anti boycott/discrimination law prohibiting discrimination based on race, religion or foreign trade relationships will become effective January 1, 1977. (Note: In California, State Treasurer Jesse Unruh said the state would stop doing business with any banks observing the Arab boycott. San Francisco Chronicle 10/30/76)

- Massachusetts Banking Commissioner has interpreted her state's anti boycott/discrimination law as covering the processing of letters of credit with secondary boycott clauses.

F. Status of State Legislation

- Three states, New York, Ohio and Illinois, have anti boycott/discrimination statutes in effect already. In New York the State Human Rights division with responsibility for administering the law, has been criticized for failing to issue implementing regulations and for failure to adequately use statutory powers to initiate investigations.

VIII. Arab Boycott Policy (cont)

C. Arab response to Bank of America move unclear

Some fear inaction on bank's decision not to process boycott tainted letters of credit will encourage non compliance by other banks.

Others urge caution. (Arab Press Service 11/16/76)

A more serious dilemma may develop if banks like Chase Manhattan, with greater interests in the region refuse to comply.

So far the Arab response to the bank-boycott issue has been pragmatic.

Although the recent boycott conference in Iraq put Barclay's on the blacklist, official Egyptian sources quoted in Kuwait on November 10 indicate that Barclay's Egyptian operations will not be affected - because benefits outweigh the adverse effects of its involvement in Israel. UAE officials hold a similar view about Barclay's operations in the Emirates.

D. Some Arab states reported ready to drop negative certificates of origin requirement.

Referring to a "reliable Washington source" the Journal of Commerce reported that several Arab government representatives have told U.S. officials that they were willing to ease certain regulations, indicating they would be prepared to accept positive certificates of origin in lieu of negative certificates. (10/26/76)

E. Sadat urges U.S. inaction on anti boycott legislation

In an effort to delay legislation Sadat told a group of Congressmen that he could be helpful in easing the boycott, which he described as a "minor issue" in the Arab-Israel conflict. He warned that U.S. pressure would be an error and suggested that all could be solved through a comprehensive settlement at Geneva. (NYT 11/19/76; Monitor 11/15/76)

Note: Proposed U.S. legislation has been directed only against the boycott's impact on U.S. firms -(secondary and tertiary aspects) - not at the Arabs' primary boycott against Israel, which is legitimately a bilateral issue.

F. Dr. Mehdi comments on Carter and boycott

The Secretary General of the Action Committee on Arab American Relations, on a nationwide tour, predicted that "Carter will cooperate with the Arab boycott" and will veto anti boycott legislation if passed. Saying that President Carter will eat many of the words spoken by candidate Carter, Mehdi told a press conference in Pittsburgh that "the U.S. needs the Arab world more than the Arabs need America." (Pittsburgh Post Gazette 11/10/76)

Mehdi also defended the boycott as a "legitimate political weapon and a humane way to wage war.... There is no blood."

(The Oregonian 10/29/76)

IX. International

A. Canada

1. Canada announces anti boycott policy

Secretary of State for External Affairs Don Jamieson told the House of Commons October 21 that the Canadian government will make public the names of companies complying with boycott requests and will deny its support and facilities in boycott related transactions. Noting that Canada "reserves the right to respond to commercial policies of other nations according to its own priorities and values" Jamieson expressed the hope that denying such government services such as export financing and market information "will be an active deterrent to cooperation with discriminatory provisions of an international boycott."

IX. International (cont)

Canada(cont)

2. F.Y.I. In Canada the problem of complying with requirements not to use blacklisted shippers and insurers reportedly is being circumvented by some firms by writing contracts on a "free alongside" basis, leaving responsibility for such arrangements to the Arab purchaser.

B. Conference of World Socialist leaders votes opposition to boycott

In voting unanimously on a resolution of economic solidarity, the 62 nation conference recommended that "no state should use its riches from various natural resources as a means of political or economic pressure upon other states." This could be taken as a rejection of Arab policies of boycott and oil embargo according to President Senghor of Senegal and Belgian socialist leader Willy Claes. (NYT 11/28/76)

VI. States (cont)

Three other states - California, Maryland and Massachusetts, have enacted anti boycott/discrimination laws scheduled to take effect in January. The Maryland Attorney General recently completed drafting implementing regulations. Comments are being solicited.

Pennsylvania, New Jersey, Minnesota, Rhode Island, Tennessee and Florida are among other states which may consider legislation in 1977.

VII. Organizations

A. American Jewish Congress Shareholder Campaign Renewed

- 33 corporations will be asked to include shareholder resolutions requesting disclosure of their policy and actions on the Arab boycott in their 1977 proxy materials. In a separate resolution, nine banking and bank holding companies will be asked to cease processing boycott tainted letters of credit.
- Last spring 22 of 33 such resolutions qualified for resubmission with the required 3% of the vote. In addition, 52 major corporations gave written assurances that they will resist Arab boycott demands.
- This year the Congress will also solicit support from major institutional investors. In 1976 voting the Carnegie Corporation, Ford Foundation, Rockefeller Family Foundation, San Francisco City and County Employees Retirement System, Oberlin College and Smith College voluntarily supported the anti boycott resolution. Six other institutions (Harvard University, University of Pennsylvania, Etna Life and Casualty Co., Kettering Foundation, National Jesuit Advisory Committee on Investor Responsibility and Nationwide Insurance Co.) abstained on the resolution rather than vote with management against it.

VIII. Arab Boycott Policy

- A. Saudis unlikely to diminish U.S. trade ties despite expected anti boycott legislation. Circumvention of law probable approach according to U.S. Middle East experts.

In and N.Y. Times Magazine article (11/14/76) on Saudi wealth and resulting extravagance, Edward Shoehan, Harvard University Arabist and author of a recent study on Kissinger's Middle East diplomacy says:

The Saudis may be wastrels but they are not fools. If the anti boycott legislation prevails it is unlikely they will accomodate Israel by severing their commercial bonds with the U.S. or even by drastically diminishing them (though some attrition of U.S.-Saudi trade would be unavoidable). Instead they will more probably hire platoons of lawyers to decipher loopholes in the laws and to outwit and work around them.

- B. Arabs reaffirm resolve to resist U.S. anti boycott legislation.

This stand emerged from the Arab Boycott Conference held in Iraq in October, according to the Middle East Economic Survey. It quotes M. Maghoub, Commissioner General of the Arab League's boycott office, as saying that the boycott "will not under any circumstances allow any foreign legislation to hamper its activities." He also warned that non complying firms will continue to be blacklisted and prevented from purchasing Arab oil or other raw materials. (Journal of Commerce, 11/9/76) Earlier it was reported that Arab states had given the Boycott Office the go ahead to prepare contingency plans to counter U.S. legislation as part of a broader political-economic offensive against Israel in 1977. (Arab Press Service, 9/13/76; 10/4/76)

VI. States

3. California banks (cont)

-Background (cont)

Guaranty, Irving Trust, Bankers Trust and Chemical Bank. Banks reported non compliance in only 261 transactions. The report concludes that the processing of boycott tainted letters of credit "is increasing at a rapid pace and will continue to increase unless the Export Administration Act is amended to clearly outlaw such practices."

B. New York

1. Action against New York banks pressed

- Arthur Burns was urged to issue a cease and desist order against N.Y. based banks cooperating with the boycott by State Assembly Speaker Stanley Steingut. This followed a legal opinion by the state's Attorney General (11/4/76) that the Lisa law covers banks and "letters of credit transactions which include conditions that require the issuer to comply with the boycott." Steingut argued that since continued refusal to comply with state law was an unsound banking practice, Burns should act under the Financial Institutions Supervision Act to enjoin this practice.
- State Banking Superintendent urged to direct N.Y. banks to halt processing letters of credit used in the Arab boycott by the American Jewish Congress in the wake of Bank of America's recent policy change.

The AJC argued that N.Y.'s statute also bars bank participation in enforcing restrictive trade provisions.

- Earlier this year complaints were filed with the State Division of Human Rights against Citibank, Margan Guaranty and the Chemical Bank by the Congress and the A.J. Committee for violating the Lisa law by processing discriminatory letters of credit.
 - In July, a special report from the Assembly's Office of Legislative Oversight and Analysis accused N.Y. based banks of failing to obey the state's anti discrimination/boycott law.
 - While many major money market banks in N.Y. continue to process letters of credit with boycott provisions, some foreign bank branches, such as the Hong Kong and Shanghai Banking Corp. (of which the British Bank of the Middle East is a subsidiary) and the Swiss Credit Corp. have halted the practice.
2. Recent studies say few trade or job losses due to Lisa law
- Two recent studies belie the contention of some shipping industry interests that the Lisa law has had a significant adverse impact on New York industry.
- A. No significant shift in trade or loss of jobs could be attributed to the law according to a July study conducted by William Haddad, Director of the Office of Legislative Oversight and Analysis. Estimating that no more than 100 "real" jobs - mostly in freight forwarding - were lost because of the anti boycott legislation, Haddad asserted that in most cases costs and logistics considerations were dominant.
- B. Concern over losses from diversion of Arab trade from the Port of New York are "groundless" according to a study prepared by the A.J. Congress (9/76). Pointing out that trade with Arab countries accounted for only 2.2% of all oceanborne freight handled by the port in 1975, the study noted "it is difficult to claim that New York has lost international shipping business which it never had." The report, which focused on cargo traffic in eastern and southern ports observed that Gulf Coast ports,

V. Tax Reform Act (cont)

- Background (cont)

Under the Act:

- Firms are required to report on business operations in countries requiring participation in an international boycott. (As mandated, Treasury issued a list of such countries, naming 14 Arab League states. 11/2/76.) Willful failure to report results in a fine of up to \$25,000 and/or up to one year in prison.
- Taxpayers are denied foreign tax credits, deferrals and DISC benefits if, as a condition of doing business in the Arab world they agree to refrain from doing business with/in Israel, with other U.S. firms doing business with/in Israel, with Jewish owned or managed companies or with blacklisted carriers. However, the statute permits taxpayers to comply (without losing benefits) with Arab requirements against importing Israeli goods into Arab countries or exporting Arab products (e.g. oil) to Israel (both essentially primary boycott restrictions).

The conference report accompanying the legislation explained that compliance occurs only when the taxpayer "has agreed" to cooperate - but that "the agreement need not be in writing; there may be an implied agreement." At the same time it said "an agreement will not be inferred from the mere fact that any country is exercising its sovereign rights." Nevertheless, "a course of conduct complying with sovereign law may, along with other factors, be evidence of the existence of an agreement."

The complexity inherent in these formulations had the effect-possibly intentional on the part of interests seeking to weaken the bill - of giving Treasury greater scope in drawing up implementing guidelines.

VI. States

A. California

1. Anti boycott legislation adopted

- Considered the toughest state legislation of its kind, the law (AB3080) makes participation in the Arab boycott a violation of California's anti trust statute. It prohibits business discrimination on the basis of race, religion, national origin or a person's lawful business associations. The latter condition is aimed directly at compliance with the secondary boycott. Firms are barred from entering into contracts requiring such forms of business discrimination or from certifying compliance to them. The legislation, signed Sept. 27, takes effect Jan. 1, 1977. Violations, viewed as illegal restraints of trade, are punishable by fines of up to \$1 million and imprisonment for up to three years.
- Another bill (AB2553) also effective in January extends provisions of the California Civil Rights Act to prohibit business discrimination on the basis of race, religion or national origin.

2. Legal challenges filed

- The new law (AB3080) is being challenged on constitutional grounds in Federal court in San Francisco. A group of state businessmen filing the class action suit argue it usurps Federal powers to regulate interstate and foreign commerce. They warned that if the law is not declared unconstitutional they will seek

E. Commerce Dept. Response (cont)

2. Proposed minor revisions in reporting form to accomodate corporate complaints:

- Recognizing that "compliance" could cover a wide range of activities and in hopes of reducing controversy over its meaning, Commerce proposed (11/18/76) amending boycott reporting forms to :
 - a. omit the response categories "comply" - "not comply" and substitute instead a query whether firms have or have not refused to "take the action, furnish the information or sign the agreement requested."
 - b. explicitly inform firms they may attach (to the reports) additional explanatory statements on the nature of their responses.

But the Department rejected as inappropriate a more significant reporting form revision which would have distinguished between firms complying by changing their business practices and those by furnishing boycott related information. The plan, which had been under consideration according to Sec. Richardson, was dropped because it implied qualitative distinctions in boycott compliance not legally recognized.

F. Other changes in boycott reporting procedures and forms.

Commerce published (10/18/76) a number of revisions to simplify data processing and enforcement - reflecting in part recommendations made in recent reports by the House Interstate and Foreign Commerce and Government Operations committees. (Subcommittees chaired by Reps. Moss (D.-Calif) and Rosenthal (D.-NY) did the investigative work.

- a. Banks and other export intermediaries now must indicate whether they will process documents containing boycott related requests. Deleted is the entry "the decision will be made by another party involved in the export transaction," which had been used by banks to obfuscate their own actions.
- b. Elimination of the quarterly multiple transaction report. Each boycott related request must be reported on a single transaction basis within 15 calendar days after the end of the month in which it was received.
- c. Clarification to require that
 - firms taking boycott related actions on the basis of information in an exporter's guidebook or similar publication or in anticipation of a request must report that action.
 - receipt of a boycott related request and bid or proposal documents must be reported whether or not a response is made.

d. Certificates of origin

Separately on Nov. 18 the Department proposed a clarifying amendment affirming past policy of distinguishing between positive and negative certificates of origin. The amendment explicitly states that requests for affirmative certificates of origin, (absent particular evidence to the contrary), are not considered boycott related requests and need not be reported.

BOYCOTT (cont)

III. Continuing Export Administration Regulations

The EAA expired by its own terms Sept. 30 because Congressional action to renew was blocked by administration opposition to the strengthened anti boycott provision.

In Executive Order 11940 (10/1/76) President Ford, citing authority under the 1917 Trading with the Enemy Act, directed the Commerce Department to extend the system of export rules and regulations authorized by the EAA.

Accordingly, the boycott restrictions and reporting requirements set forth in the Export Administration regulations continue in effect, except that in conformity with the 1917 statute, the Commerce Department no longer has authority to issue civil fines of up to \$1,000 per violation and penalties for criminal violations have been changed to a maximum of \$10,000 or 10 years imprisonment.

Authority under the 1917 statute has been used for short periods on three other occasions in recent years pending completion of Congressional action but never for as long as the minimum six months estimated until new legislation is enacted.

Some private attorneys in Washington have speculated on a court challenge to continued export controls under the 1917 statute and/or the legality of administrative procedures now being followed by the Department.

IV. Commerce Department Boycott Disclosure Program

A. Background

- Defending his administration's handling of the boycott issue during the second Presidential debate, President Ford announced plans to disclose names of U.S. companies "that have participated" in the Arab boycott. Subsequently the White House explained that only prospective disclosures were intended. As a result, on Oct. 7, Ford directed the Commerce Department to amend its Export Administration Regulations to provide for public disclosure of boycott reports received on or after that date. Business proprietary information could remain confidential.
- During the last session of Congress, administration spokesmen opposed a similar mandatory public disclosure^{plan} proposed by Sen. Stevenson (S. 953, S.3084). In testimony on Oct. 20 Commerce Sec. Richardson revealed that the White House had twice rejected his own recommendation to authorize a public disclosure program.

B. Rationale

- Ford, in his directive said: "Disclosure of boycott related reports will enable the American public to assess for itself the nature and impact of the Arab boycott and to monitor the conduct of American companies. I have concluded that this public disclosure will strengthen existing policy against the ... boycott ... without jeopardizing our vital interests in the Middle East."
- The State Department apparently saw in the disclosure program a means to deflate anti boycott legislation. In mid October it instructed its diplomats in the Arab world to stress its "constructive opportunities". Attaching significance to that aspect of the program which enabled the American public to assess the boycott for itself, the Department said it hoped to be able to point to positive trends - a shift from negative to positive certificates of origin, an absence of religious discrimination and tertiary boycott clauses - as a means of forestalling what it considered adverse anti boycott legislation in the next session.

THE WHITE HOUSE
WASHINGTON

February 8, 1977

Ham Jordan -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

RE: Maynard Jackson
& Bill Allison

THE WHITE HOUSE
WASHINGTON

2/8/77

Ham:

Maynard Jackson wants
to help on advisory
group re
Urban
Poverty
Race

problems.

Also Bill Allison (suprb)
wants to work for us.

J

THE WHITE HOUSE
WASHINGTON

Ham has
copy
already

THE WHITE HOUSE
WASHINGTON

2-8-77

To Nam

Sen Don Taylor
(N.C.) recommends

John Shaw as
FHA director for
N.C.

I trust Sen
judgment - but check
on Shaw -

J

—

THE WHITE HOUSE
WASHINGTON

2-8-77

To Greg Schneider

I'm concerned about
the important nature of
the proposed work -
especially coming from
me personally -

Use these sparingly.
Computer printing should
be used more than you
planned -

J

rick -- for your information and/or file

I hand ~~carried~~ this note to greg this
morning, along with a folder of letters
~~xxx~~ (from constituents/no responses)

-- susan

THE WHITE HOUSE
WASHINGTON

Feb. 8, 1977

Jody:

Admiral Turner's base Navy pay is
\$39,600, plus
4,452 in housing allowance +
660 for subsistence allowance
\$44,712

The DCI salary is \$44,600 - Executive
Pay Scale 2.

Rear Admirals Sidney Souers and Roscoe
Hillenkoetter remained on active duty while
they were Directors of Central Intelligence.
Vice Admiral Raborn was retired.

Jerry Schecter

ALL INFORMATION CONTAINED HEREIN
IS UNCLASSIFIED

THE WHITE HOUSE
WASHINGTON

cc Schlenker

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

February 8, 1977

MEMORANDUM FOR: THE PRESIDENT
FROM: JAMES R. SCHLESINGER

We have already begun the process of obtaining wide input into the evolution of your energy policy through meetings with industry, environmental and consumer groups; as well, of course, meetings with key members of Congress. We will continue holding preliminary meetings with key people such as the Governors and others to the extent time permits.

Recognizing our time constraints, we plan to invite written comments from all interested persons. These comments will be read and summarized by my staff. In addition, we will continue to meet with groups that seek face-to-face meetings to the extent feasible. The possibility of holding regional hearings or town meetings is an idea that should be explored.

Because of the time constraints, we hope to rely primarily on written comments and "ration" the number of face-to-face meetings to the minimum necessary to satisfy the major parties of interest.

We would hope that on occasion you may find time to sit in on some of the key meetings.

We of course are contemplating a last round of consultation with representatives of industry, environment, consumer groups, states and the Congress in the final weeks after there is a rough cut of a program that you have reviewed and before the April 20 deadline for presentation to the Congress.

We will present you with a more definitive timetable and plan for wide input in the very near future.

Jim
It's but people need
to know clearly how/when
they can have input
J

J. Schlesinger

THE WHITE HOUSE
WASHINGTON

February 8, 1977

The attached is forwarded to you
for your information.

The Vice President
Jody Powell
Midge Costanza

Rick Hutcheson

THE WHITE HOUSE
WASHINGTON

cc Bridg
Tody
VP

(original has already
gone in to Pres)

February 8, 1977

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JAMES R. SCHLESINGER

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We will present you with a more definitive timetable and plan for wide input in the very near future.

cc: J. Schlesinger
D. Freeman
T. Pagnotta (Central Files)

THE WHITE HOUSE
WASHINGTON

February 3, 1977

Jim Schleslinger -

The attached was returned in
the President's outbox. It is
forwarded to you for appropriate
handling.

Rick Hutcheson

cc: Jack Watson
Stu Eizenstat
Ham Jordan

THE WHITE HOUSE
WASHINGTON

2-3-77

To Jim Schlesinger

It is necessary
to have wide input
into the evolution
of our energy policy.
Please let me know
by memo how this
will be done.

J. C.

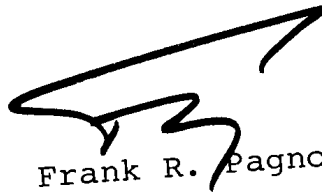
THE WHITE HOUSE
WASHINGTON

February 8, 1977

MEMORANDUM FOR: Rick Hutcheson

SUBJECT: Memorandum to the President

Attached is Jim Schlesinger's response to the President's note to him of the 3rd of February regarding wide input into the evolution of the energy policy.

A handwritten signature in black ink, appearing to read 'F. Pagnotta', with a stylized, sweeping flourish above the name.

Frank R. Pagnotta

Attachment

THE PRESIDENT HAS SEEN.

EXECUTIVE

CO 104

PR 7-1

(22)

THE WHITE HOUSE
WASHINGTON

*Eldall, Morris (Cong.)
Pettis, Shirley (Cong.)
Van Deerlin, Lionel (Cong.)
Moore, Frank
Pinson, Valerie
Tate, Dan*

February 8, 1977

MEETING WITH SENATOR LLOYD BENTSEN (D-TEX)
AND OTHER SENATORS AND CONGRESSMEN

Wednesday, February 9, 1977 *Pastor, Bob*
4:30 p.m. (20 minutes)

The Oval Office

From: Frank Moore *FM*

I. PURPOSE

To discuss Mexican-American border problems prior to The President's meeting with President Portillo of Mexico.

II. BACKGROUND, PARTICIPANTS & PRESS PLAN

- A. Background: Senator Bentsen requested a meeting with The President to include himself and all other Border State Senators, as well as Border District Congressmen. The Senator wishes to have the opportunity for him and his colleagues to express their views on certain Mexican-American border problems. The Senator hopes that this information would be helpful to The President in his forthcoming discussions with President Portillo.

Senator Bentsen has furnished to you (attached hereto) an agenda of the issues which he considers significant. They include devaluation of the Mexican peso, narcotics traffic, contraband arms trade, agricultural pest control, bi-national transportation programs, violence and terrorism and border institutions.

- B. Participants: The President; Senators Lloyd Bentsen (D-Tex.), John Tower (R-Tex.), Pete Domenici (R-N.M.), "Jack" Schmitt (R-N.M.), Dennis DeConcini (D-Ariz.), Barry Goldwater (R-Ariz.), Alan Cranston (D-Calif.) and "Sam" Hayakawa (R-Calif.); Representatives Kiki de la Garza (D-Tex.), Henry Gonzalez (D-Tex.), Abraham Kazen (D-Tex.), Richard C. White (D-Tex.), Harold Runnels (D-N.M.), Bob Stump (D-Ariz.),

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Morris Udall (D.-Ariz.), Shirley Pettis (R-Calif.) and Lionel Van Deerlin (D-Calif); Frank Moore, Valerie Pinson and Dan Tate will represent Congressional Liaison.. Bob Pastor will represent NSC.

- C. Press Plan: Brief photo session at beginning of the meeting.

III. TALKING POINTS

1. You are all aware of the great problems which face our good neighbor, Mexico--population, trade deficits, rural and urban poverty. The devaluation of the peso is only one symptom of this problem. To get on its feet and to be able to work with us on the issues raised by you--from narcotics to arms smuggling, transportation programs to tourism--to do this, Mexico may need our help with financial assistance and increased access to the U.S. market (we had a \$1.6 billion trade surplus with Mexico last year).
2. What would your reaction be if President Lopez Portillo should make these requests to me? Let me stress that I don't know whether any such requests will be made, but if they were, what would the reaction of the Congress be?

Attachment